G. R. S. 58]

Previous references.

1914. 15

(Cs —)

File No. 247-14

Serial Nos. (1)

Later references.

Preserve
Apr 2/18/26

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. (1)

Part B for Dec' 14

SUBJECT.

Remarks of the Chief Court in regard to the appointment of H. K. Veerabasayya as Hg Munsiff.

(1) From the Regr Chief Ct Do. Dy 1.8.14. states that the judges of the Chief Ct would nominate Mr. Veerabasaviah as Munsiff so as to place the regularity of his appointment beyond doubt & that they request that in filling up future vacancies their letter of 21st March last may not be taken as conly the nomination by the Chief Ct

GPB—3,500—21-7-14

M. G. Hosur

18/2/15

G.R.S. 11] 1914-15

GENERAL AND REVENUE SECRETARIAT.

(Courts)

NOTES.

File No. 247

FILE HEADING.

Remarks of the Chief Court in regard to the appointment of Mr N. K. Veerabasavayya as Officiating Munsiff.

From

The Registrar, Chief Court

No. Dated 1.8.1914 Received 1.8.1914

Diary No.	Enclos.	Spare Copies.	Serial No.

BRIEF ABSTRACT OF LETTER.

NOTES AND ORDERS.

R.T.O.

NOTES—First Sheet.

GPB—35,000—15-6-12

J Mis 252-14

(2)

R. S. 12]

General and Revenue Secretariat.

Cj File No. 247 of 1914-15

Serial No.

No J. 20. Sl 1
3-8-14

The acting Reg. of the Chief Court writes that the Judges of the Chief Court would nominate Mr Veerabasavayya as Munsiff so as to place the legality of his appointment beyond doubt and that they request that in the filling of future vacancies their letter of the 21st March last may not be taken as containing a nomination by the Chief Court

First — as to legality

Sec 4, clause (c) of the Civil Courts Regulation is as follows: —

"The Judge of every such Civil Court shall be appointed by the Government of Mysore, provided that the appointment of a Munsiff shall be made only upon nomination by the Chief Court of Mysore".

Under this provision, the Chief Court are not entitled to make a nomination in regard to a higher appointment of a Judge than that of a Munsiff. As regards the latter, the Chief Court are entitled undoubtedly to exercise the right of nomination but this is subject to the right of appointment by Govt.

"Nomination" and "appointment" are not synonymous with each other. Hence Govt are not legally bound by the nomination made by the Chief Court.

In this case the only point for consideration from the stand point of legality, is whether the Chief Court made their nomination before Govt.

NOTE.—Contn. sheet.

GPB—65,000—17-6-12.

Serial No.

ordered the appointment: the Chief Court did so and this is enough to satisfy the requirements of the law.

If the law intended that no appointment could legally be made by Govt. unless the Chief Court and the Govt. concurred as to the candidate for appointment, it would have distinctly said so.

Hence the legality of the appointment made by Govt. cannot, in my opinion, be questioned without abolishing the distinction in the import of "nomination" & "appointment" and without importing new ideas into the Statutory provision, unwarranted by the language employed therein.

The second point raised by the Reg. is based on a misconception. Govt. did not regard the Chief Court letter of the 26th March last as containing the nomination of Mr Veerabasavayya. They overruled the nomination of Mr Venkatachar made by the Chief Court on this occasion & ordered the appointment of Mr Veerabasavayya.

If the contention of the Chief Court in regard to the interpretation of Sec 4, cl(c) is once accepted as correct, there will then be an end, once for all, to the power of appointment vested in Govt. by that provision.

Duncan Colvin 3/8

First member & Secretary

For the views of the late Sir Bray on Sec 4, cl(c) of the Civil Courts Regulation, please

NOTE—Contn. sheet.

GPB—65,000—17-6-12.

R. S. 12]

General and Revenue Secretariat. | 45 File No. 247 of 1914-15

Serial No.

See the confidential Section report-up.

Fist member & Secy

Dmacgillan
3/8

Sir Ismay's Suggestion that Govt may keep the apptt in its own hands was made not seriously but apparently as a mild protest against undue interference.

Of Course we did not act on the previous letter about Virabasavayya. My own view about the proper Course when we do not accept the nomination is already given in my Note.

No further order is in my opinion necessary about Virabasavayya's apptt.

4/8/14

I shall be glad if the Secretary will kindly prepare and send up for consideration, the draft of a reply to the Chief Court.

13.8.14

NOTE—Contn. sheet.

GPB—65,000—17-6-12.

(5)

[R. S. 12]

General and Revenue Secretariat.

C5 File No. 247 of 1914-15

Serial No.	
	A draft is put up for consideration & orders. Dewan 23/8
	First member & Dewan 25/8/14 Dewan 27/8
	2684 19.11.14
	B 6/11/15

NOTE—Contn. sheet.

GPB—65,000—17-6-12.

Submitted to His Highness.

With reference to Government Notification No. 9266-Cts 22-14-4 dated 29th July 1914 appointing Mr. H.K. Veerabasavaiya to officiate as Munsiff, the Chief Court state that the appointment not having been made on the nomination by the Chief Court, is not quite in accordance with the provisions of section 4 (c) of the Civil Courts Regulation and that there is a possibility of the jurisdiction of the Munsiff thus appointed being called in question. They suggest that in order to place the legality of the appointment beyond question, the Judges would, if the Government so desire, be willing to nominate Mr. Veerabasavaiya and request that in the filling of future vacancies their letter of 21st March 1914 may not be taken as containing a nomination by the Chief Court.

Paper under disposal.

2. The First Member of Council states that in appointing Mr. Veerabasavaiya, Government did not act on the previous letter of the Chief Court and that no further order is necessary in regard to Mr. Veerabavaiya's appointment.

Page 3 of the Note.

3. While nominating Mr. Venkatachar for a Munsiff's place in March last, the Chief Court mentioned the name of Mr. H.K. Veerabasavaiya among others as being an eligible candidate for the post of a Munsiff. The nomination of Mr. Venkatachar was not accepted for reasons explained in a previous file. His name was again recommended by the Chief Court in connection with a more recent vacancy and for the same reasons the Government were again unable to accept the nomination. Mr. Veerabasavaiya whom the Chief Court considered to be eligible was selected as a fair representation of various classes

7

in the Public service was considered to be necessary in public interests.

4. In nominating Mr. Veerabasavaiya to the post Government had no desire to ignore the Chief Court and as his name had already been included by the Court in a list of eligible candidates, the Government selected him for the post on the occurrence of a vacancy.

5. The Chief Court do not press the objection and in the course of a conversation Sir Leslie Miller told me that the appointment of Mr. Veerabasavaiya would be acquiesced in. No further orders are therefore necessary in the matter. The papers are submitted for His Highness's information.

M. Visvesvaraya -
18th Nov-1914.

8

Record of Cases submitted for the Orders of His Highness the Maharaja.

Subject.

Remarks by the Chief Court in regard to the recent appointment of Mr.H.K. Veera basavayya as officiating Munsiff.

501

Order..

KRM

31/12/14

B 6e/14

Secretary

Cb 22-12-14. noted on 7 12 subject to the

5/12/14. KC

7/12/14

7/12/14

Rec'd 4 Pm 1/8

GOVERNMENT OF MYSORE

CHIEF COURT OF MYSORE

BANGALORE.

Dated 1st August 1914

Dear Sir,

With reference to Government Notification No. 9266/Cts. 22-14-4 dated 29th July 1914 appointing Mr. Veerabasaviah to officiate as a Munsiff I am directed to state that it was not the intention of the Chief Court in its letter of the 21st of March 1914 to provide the Government with a list of nominees for future vacancies and this seems to have been recognized by the Government when on the 20th of May last they asked for three names to be nominated. The fact that the candidate nominated by the Court on the 21st of March was not appointed then by the Government, and that a candidate whose name appeared in a list of eligibles but without nomination, was selected, was not then made the subject of any representation to the Government because it might well have been considered by the Government that the Court intended them to accept the list as containing

containing the names of approved candidates. But the list as a list for selection by the Government, was not intended for any vacancy other than that then existing, and Mr. Vira Basavayya now appointed was not nominated by the Court in the vacancy in which he has received his appointment.

In these circumstances it is the opinion of the Judges that the vacancy has not been filled "on nomination by the Chief Court" as required by Section 4(c) of the Civil Courts Regulation.

It is of course in no way the desire of the Chief Court to embarrass the Government in its selection of judicial officers or to cavil at the selection now made but the Judges venture to think that it is of importance that the provisions of the Regulation should be strictly adhered to: it might well happen that the jurisdiction of a Munsiff appointed otherwise than on nomination might be called in question.

But apart from more or less remote possibilities of that sort the Judges feel sure that the Government does not

not wish to depart in any degree from the spirit of the Regulation, and have only thought it necessary to bring the matter to notice because it seems to them that the appointment of Mr. Vira Basavayya involves an infringement, doubtless unintentional, of the law.

The Judges would in the circumstances of the present case be willing, if the Government so desire, to nominate Mr. Vira Basavayya for the present vacancy and so place the legality of the appointment beyond question, and venture respectfully to request that in the filling of future vacancies their letter of the 21st of March last may not be taken as containing a nomination by the Court.

Yours sincerely,

Ag. REGISTRAR.

D.M.NARASINGA RAO Esquire, B.A., B.L.,
Secretary to the Government of Mysore,
General and Revenue Departments.

not moved

Bangalore.
August 1914.

Dear sir,

With reference to your demi-official letter of the 1st August 1914 communicating for the consideration of Government certain observations of the Chief Court in regard to the appointment of Mr. Veerabasavayya as offg. Munsiff, I am desired to state as follows:-

In making this appointment Government did not regard the Registrar's letter of the 21st March 1914 as containing the nomination of Mr. Veerabasavayya by the Chief Court.

As required by law, the appointment was made after the Chief Court had exercised the right of nomination. As however the nomination of Mr. Venkatachar made by the Chief Court was deemed by Government to be unsatisfactory, the Chief Court were demi-officially requested ~~inspection~~

~~[illegible]~~ that a fresh nomination might be submitted to Government. But when it was found that the Chief Court were disinclined to reconsider their nomination, Government felt compelled to adopt the only alternative legally open to them viz. to overrule the nomination of the Chief Court and to make an appointment which appeared to them most expedient in the then existing circumstances.

In the matter of selection of candidates for the posts of Munsiffs, it is the studied policy of Government to give due weight to the views of the Chief Court without prejudice to the power of appointing Munsiffs vested in Government.

Yours sincerely
DMu
23/8